

1914

c 91 Crown Attorneys Act

Ontario

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2. Other Officers of Justice.

CHAPTER 91.

An Act respecting Crown Attorneys.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Short title. **1.** This Act may be cited as *The Crown Attorneys Act*. 9 Edw. VII. c. 55, s. 1.

Appointment. **2.** The Lieutenant-Governor in Council may appoint two Crown Attorneys for the County of York, one to be designated the Crown Attorney for the County of York, and the other the Crown Attorney for the City of Toronto, and also one Crown Attorney for each of the other counties and for each Provisional Judicial District in Ontario. 9 Edw. VII. c. 55, s. 2.

Qualification. **3.** No person shall be appointed a Crown Attorney, or shall act in that capacity, who is not a barrister-at-law of at least three years' standing at the Bar of Ontario, and a resident in the county or district for which he is appointed. 9 Edw. VII. c. 55, s. 3.

Security. **4.** Every Crown Attorney shall give security for the due performance of the duties of his office and for the due payment of all moneys received by him by virtue thereof, in such sum, and with so many sureties, and in such manner and form as the Lieutenant-Governor in Council directs. 9 Edw. VII. c. 55, s. 4.

Oath of Office. **5.** Every Crown Attorney shall before he enters upon his duties take and subscribe before the Judge of the County or District Court of the county or district for which he is appointed the following oath:

"I swear that I will truly and faithfully, according to the best of my skill and ability, execute the duties, powers and trusts of Crown Attorney for the County (or District) of
without favour or affection to any party: So help me God."

9 Edw. VII. c. 55, s. 5.

6. No Crown Attorney shall, by himself or his partner in business, act or be directly or indirectly concerned as counsel or solicitor for any prisoner or person in respect to any charge against such prisoner or person of any offence against the laws of Ontario or punishable under the criminal law. 9 Edw. VII. c. 55, s. 6.

Prohibition against acting for persons charged with offences.

7. The Crown Attorney shall aid in the local administration of justice, and perform the duties by this or any other Act of Canada or of Ontario assigned to Crown Attorneys. 9 Edw. VII. c. 55, s. 7.

Duties generally.

8. Subject to the provisions of sections 10 and 11 every Crown Attorney shall

Special duties.

(a) receive and examine all informations, examinations, depositions, recognizances, inquisitions and papers connected with criminal charges or offences against the laws of Ontario which the Justices of the Peace and Coroners of the county or district are required to transmit to him, and, where necessary, cause such charges to be further investigated, and additional evidence to be collected, and sue out process to compel the attendance of witnesses and the production of papers, so that prosecutions at the sittings of the High Court Division, the Court of General Sessions of the Peace and the County or District Court Judge's Criminal Court, may not be unnecessarily delayed or fail through want of proof;

To receive and examine informations, etc.

To secure attendance of witnesses.

(b) institute and conduct on the part of the Crown prosecutions for crimes and misdemeanours at the Court of General Sessions of the Peace, and the County or District Court Judge's Criminal Court for the county or district in the same manner as the Law Officers of the Crown institute and conduct similar prosecutions at the sittings of the High Court Division, and with the like rights and privileges, except as to the right of entering a *nolle prosequi*, and attend to all criminal business at the Court of General Sessions of the Peace, and the County or District Court Judge's Criminal Court;

To institute and conduct prosecutions at Sessions, etc.

(c) watch over the conduct of the Court of General Sessions of the Peace of cases wherein it is questionable whether the conduct complained of is punishable by law or where the particular act or omission presents more of the features of a private injury than of a public offence; and, without unnecessarily interfering with private individuals who wish in such cases to prosecute, assume wholly the conduct of the case where

To watch certain cases brought by private prosecutors.

justice towards the accused seems to demand his interposition;

To deliver papers connected with criminal business at Assizes to Crown Officer.

- (d) deliver to the Crown Officer or Counsel appointed by the Attorney-General, all papers connected with the criminal business at the Sittings of the High Court Division on or before the opening of the Court;

When to take charge of business.

- (e) be present at the Court, and, if required, assist the Crown Officer or Counsel with the criminal business, and, in the absence of the Law Officers of the Crown and of such Counsel, represent the Crown and take charge and conduct of the criminal business to be done at such sittings;

To institute and conduct summary proceedings before Justices of the Peace in certain cases.

- (f) if required by the general regulations touching his office made in pursuance of the provisions herein-after contained, on a complaint in writing, or where the public interests so require, institute and conduct proceedings before Justices of the Peace under any Act or law conferring summary powers to convict for offences in relation to the public revenue, the public property, the public domain, the public peace, the public health, and any other matter made punishable on summary conviction;

To advise Justices of the Peace at their request.

- (g) advise a Justice of the Peace in respect to criminal offences brought before him for preliminary investigation or for adjudication if he requests him to do so by writing containing a statement of the particular case;

To supply forms for use of Justices of the Peace.

- (h) procure the necessary forms for the use of Justices of the Peace, and supply the same to acting Justices of the Peace as needed, in such manner as he deems expedient, the expense of which shall be paid out of the county funds as part of the expenses connected with the administration of justice, except where such forms are supplied by the county council through the clerk of the county or the Clerk of the Peace;

Duties and fees of Crown Attorney on admitting person to bail.

- (i) where a prisoner is in custody charged with an indictable offence, and an application is made for bail, enquire into the facts and circumstances upon which the charge is based, and satisfy himself as to the sufficiency of the surety or sureties offered, and examine and approve of all bail bonds entered into before a Justice of the Peace or Police Magistrate, in case bail is consented to or ordered, for which services he shall be entitled to receive from the person for whom bail is given, in each case, the sum of one dollar, and where the

prisoner is unable to make such payment the same may be paid in the same manner as other fees of the Crown Attorney;

- (j) perform such other duties and services as the Lieutenant-Governor in Council, by regulations prescribes and directs for carrying out the provisions of any Act imposing duties upon Crown Attorneys, and also touching the office of Crown Attorney and the prosecution of criminal offenders; To perform duties to be assigned by regulations in Council.
- (k) advise coroners and attend coroners' inquests if requested by the coroner in writing so to do. Assistance to coroner.

9 Edw. VII. c. 55, s. 8.

9. Where a person is committed for trial or bailed to answer a criminal charge the Justice of the Peace committing or bailing shall deliver or cause to be delivered without delay to the Crown Attorney the informations, depositions, examinations, recognizances and papers connected with the charge; and, subject to the provisions of section 8 of *The Ontario Summary Convictions Act*, the Crown Attorney shall be the "Proper officer of the Court by which the accused is to be tried," within the meaning of section 695 of *The Criminal Code*, and in every case of inquisition found before a Coroner, the inquisition and every recognizance taken before him, with the written information, if any, and the depositions and statements, if any, of the accused shall be forthwith delivered to the Crown Attorney of the county or district in which the inquisition has been found; and, where an information has been laid or complaint made before a Justice of the Peace, whether proceedings have been taken thereon or not, the Justice shall deliver to the Crown Attorney all papers connected therewith on being by him required so to do. 9 Edw. VII. c. 55, s. 9. Justices to deliver informations, etc., to Crown Attorney. Rev. Stat. c. 90. R. S. O. 1906, c. 146, s. 695.

10. The Crown Attorney for the City of Toronto shall be the Crown Attorney whose duty it shall be to institute and conduct on the part of the Crown prosecutions before the Police Magistrate for the City of Toronto, and to institute and conduct all other proceedings before the Police Magistrate or any Justice or Justices of the Peace acting for such Police Magistrate under any Act or law conferring summary powers to convict for offences in relation to the public revenue, the public property, the public domain, the public peace, the public health and any other matter made punishable on summary conviction before such Police Magistrate or Justice or Justices of the Peace; and the Crown Attorney is hereby empowered to institute such proceedings upon a complaint in writing or as public prosecutor in cases where the public interest requires the exercise of such office. 9 Edw. VII. c. 55, s. 10. Duties of Crown Attorney for the City of Toronto.

Duties of
Crown Attorney
for County
of York.

11.—(1) The Crown Attorney for the County of York shall, with respect to all Police and Magistrates' Courts within the County of York, except those mentioned in the next preceding section, perform like duties and have like powers to those which are conferred by the next preceding section upon the Crown Attorney for the City of Toronto.

General duties.

(2) Except as otherwise by this Act expressly provided the Crown Attorney for the County of York shall also perform all the duties required to be performed by Crown Attorneys under this Act or any regulations made thereunder. 9 Edw. VII. c. 55, s. 11.

Lieutenant-
Governor in
Council may
make regula-
tions as to du-
ties and fees
of Crown
Attorney.

12. The Lieutenant-Governor in Council may make regulations for carrying out the provisions of any Act imposing duties upon Crown Attorneys, and also touching the office of Crown Attorney, and for the prosecution of offenders against the laws of Ontario or against the criminal law, and may make a tariff of fees and charges to be payable to a Crown Attorney for services as such officer not otherwise provided for by this or any other Act. 9 Edw. VII. c. 55, s. 12.

Case of un-
avoidable ab-
sence or illness
of Crown Attor-
ney provided
for.

13. In case of the illness or unavoidable absence of the Crown Attorney, the Judge of the County or District Court of the county or district may appoint a barrister-at-law to act for him during his illness or absence, and notice of the appointment and of the cause thereof shall be sent to the Provincial Secretary, and the Lieutenant-Governor in Council may at any time annul the appointment. 9 Edw. VII. c. 55, s. 13.

Sections 3 and 4 of c. 106 of the Consolidated Statutes of U. C. are as follows:

Fees in cases
conducted by
him at trial,
where costs
are paid by
defendant.

3. In every case of misdemeanour tried at the Court of Quarter Sessions, in which costs are or may be ordered to be paid by a defendant, the County Attorney shall be entitled to fees as Attorney and Counsel for services rendered in such case. to be taxed by the Court according to the scale of allowance in the County Courts as nearly as the nature of such services will allow; such fees in case of conviction to form part of the costs payable by a defendant.

And in case of
felony or mis-
demeanour
when costs are
not paid by de-
fendant.

4. In all cases of felony tried as aforesaid, and in all cases of misdemeanour in which no costs have been ordered to be paid, or, if ordered to be paid, cannot be made of the defendant, the County Attorney shall be entitled to receive for the services rendered by him in each such case the sum of five dollars, to be paid upon certificate of the Chairman of the Court of Quarter Sessions, and to form a portion of the expenses of the administration of criminal justice in Upper Canada.

[See also sections 1044-1047 of *The Criminal Code of Canada*. R.S.C. 1906, c. 116.]

14. For services in the County or District Court Judge's Criminal Court the Crown Attorney shall be entitled to the same fees as for like services in the Court of General Sessions of the Peace. 9 Edw. VII. c. 55, s. 14. Fees in County Court Judges' Criminal Court

15. Every Crown Attorney shall be allowed a percentage of \$4 on every \$100 of public moneys coming into his hands. 9 Edw. VII. c. 55, s. 15. Percentage on money coming into his hands.

16.—(1) The Lieutenant-Governor in Council may commute the fees payable to a Crown Attorney in any county or district in which there is a city having a population of over 100,000 for a fixed annual sum, not exceeding the average income derived from fees during the next preceding five years. Commutation of certain Crown Attorney's fees.

(2) Any annual sum fixed as provided in the next preceding subsection shall continue until varied by Order in Council, but any order for payment of any such annual sum may be rescinded, and the amount may, by order in Council, be increased or diminished provided that in no case shall any Order in Council name a sum exceeding the average income or fees aforesaid, as the case may be, during the next preceding five years. Amount may be varied.

(3) The Lieutenant-Governor in Council may also direct that any money appropriated by the Legislature for assistance to the Crown Attorney shall be paid to the Crown Attorney in addition to the amount of such commutation. 9 Edw. VII. c. 55, s. 16. Payment for assistance to Crown Attorney.

17. Every Crown Attorney and Clerk of the Peace shall, on or before the 15th day of January in every year, make to the Inspector of Legal Offices a return under oath of the aggregate amount of the fees and emoluments of his office during the next preceding year, up to and including the 31st day of December. 9 Edw. VII. c. 55, s. 17. Return of fees.

[See also section 11 of *The General Sessions Act, R.S.O.* c. 60.]